

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THE INSTITUTE OF CETACEAN  
RESEARCH, a Japanese research foundation;  
KYODO SENPAKU KAISHA, LTD., a  
Japanese corporation; TOMOYUKI OGAWA,  
an individual; and TOSHIYUKI MIURA, an  
individual,

Plaintiffs,

v.

SEA SHEPHERD CONSERVATION  
SOCIETY, an Oregon nonprofit corporation,  
and PAUL WATSON, an individual,

Defendants.

Case No.: 2:11-cv-02043-RAJ

**DECLARATION OF DAN HARRIS IN  
SUPPORT OF DEFENDANTS' RESPONSE  
IN OPPOSITION TO PLAINTIFFS'  
MOTION FOR PRELIMINARY  
INJUNCTION**

NOTE ON MOTION CALENDAR:  
FEBUARY 3, 2012

I, Dan Harris, declare as follows:

1. I am the lead attorney for Defendants Sea Shepherd Conservation Society and Paul Watson in this case. I am over the age of 18 and competent to testify.

2. Attached hereto as Exhibit 1 is a true and correct copy of Sea Shepherd's Articles of Incorporation, filed in Oregon in 1981 to establish Sea Shepherd as a non-profit entity.

3. Attached hereto as Exhibit 2 are true and correct copies of the registrations of all three vessels involved in Sea Shepherd's activities in the Southern Ocean.

DECLARATION OF DAN HARRIS - 1

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Seattle, WA 98101  
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1           4.       Attached hereto as Exhibit 3 is a true and correct copy of the Australian federal court  
2 decision in *Humane Society International, Inc. v. Kyodo Senpaku Kaisha, Ltd.*, [2008] FCA 3 (15  
3 January 2008), finding Plaintiffs' whaling activities illegal.

4           5.       Attached hereto as Exhibit 4 is a true and correct copy of the press release issued by  
5 the International Court of Justice regarding Australia's lawsuit against Japan for illegal whaling.

6           6.       Attached hereto as Exhibit 5 is a true and correct copy of the press release issued by  
7 the International Court of Justice regarding the briefing schedule for the lawsuit between Australia  
8 and Japan regarding whaling.

9           7.       Attached hereto as Exhibit 6 is a true and correct copy of IWC Resolution 2005-1  
10 regarding Plaintiffs' whaling activities.

11           8.       Attached hereto as Exhibit 7 is a true and correct copy of IWC Resolution 2007-1  
12 regarding Plaintiffs whaling activities.

13           9.       Since receiving notice of this lawsuit on or about December 9, 2011, Defendants'  
14 legal team has worked diligently, despite the holidays and a significant snow storm, to locate an  
15 expert regarding the scientific value, or lack thereof, of Plaintiffs' so-called "research whaling." We  
16 were able to locate two whale experts (Dr. Phillip Clapham of NOAA here in Seattle and Dr. Scott  
17 Baker of Oregon State University) who stated that they wanted to and would testify to the fact that  
18 Plaintiffs' whaling activities are commercial in nature and are committed only under the guise of  
19 "scientific research." In the end though, both of these whale scientists were not able to testify in this  
20 case because of their governmental obligations. The U.S. government instructed Dr. Clapham not to  
21 testify and Dr. Baker concluded that he should not testify because of his role on a U.S. Government  
22 Science Committee regarding international whaling. This alone highlights the extraordinarily  
23 sensitive political and foreign relations issues involved in this case.

24           10.      Due to the short timeframe Defendants have been forced to respond to Plaintiffs'  
25 allegations, Defendants have been prejudiced because they simply have not been given enough time  
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DECLARATION OF DAN HARRIS - 2

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1 to secure a top level scientist to testify regarding the lack of scientific value of Plaintiffs' so-called  
2 "research" whaling.

3 11. Defendants will continue to seek out a world-class scientist capable of testifying on  
4 these issues.

5 12. In light of Defendants' inability to secure testimony at this time, Defendants are  
6 submitting academic articles illustrating the many defects in Plaintiffs' "research" whaling  
7 allegations.

8 13. Attached hereto as Exhibit 8 is a true and correct copy of "The whaling issue:  
9 Conservation, confusion, and casuistry" authored by Phillip J. Clapham, Simon Childerhouse,  
10 Nicolas J. Gales, Lorenzo Rojas-Bracho, Michael F. Tillman, and Robert L. Brownell Jr.

11 14. Attached hereto as Exhibit 9 is a true and correct copy of "Whaling as Science"  
12 authored by Phillip J. Clapham, Per Berggren, Simon Childerhouse, Nancy A. Friday, Toshio  
13 Kasuya, Laurence Kell, Karl-Hermann Kock, Silvia Manzanilla-Naim, Giuseppe Notabartolo Di  
14 Sciara, William F. Perrin, Andrew J. Read, Randall R. Reeves, Emer Rogan, Lorenzo Rojas-Bracho,  
15 Tim D. Smith, Michael Stachowitsch, Barbara L. Taylor, Deborah Thiele, Paul R. Wade, and Robert  
16 L. Brownell Jr.

17 15. Attached hereto as Exhibit 10 is a true and correct copy of "How 'scientific' is  
18 Japan's scientific whaling?" by Phillip J. Clapham, Ph.D.

19 16. Attached hereto as Exhibit 11 is a true and correct copy of a news article dated  
20 January 11, 2012 regarding Plaintiffs' entry into Australian waters.

21 17. Attached hereto as Exhibit 12 is a true and correct copy of a news article dated  
22 January 25, 2012 regarding Plaintiffs' following of Defendants' vessels.

23 18. Attached hereto as Exhibit 13 is a true and correct copy of a news article dated  
24 December 19, 2011 regarding Japan's use of tsunami relief funds for whaling.

25 19. Attached hereto as Exhibit 14 is a true and correct copy of a DVD made up of 22  
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DECLARATION OF DAN HARRIS - 3

clips (total length of this footage is less than ten minutes) from the Animal Planet television show Whale Wars. These clips come from the first three seasons of the show, and so it is made up of the 2008, 2009, and 2010 whaling seasons. Since these clips all come from the television show, they were all filmed and recorded by presumably unbiased professional journalists. The 22 clips consist of the following:

Clips	Description of Footage
1-2	Sea Shepherd stresses need to avoid injuring anyone/describes rationale behind butyric acid
3-4	Description of the environmental impact of whaling
5	Sea Shepherd acts to enforce U.N. World Charter for Nature
6-8	Sea Shepherd stresses need to avoid injuring anyone/describes rationale behind butyric acid
9-10	Sea Shepherd stresses avoiding aiming butyric acid near anyone. Offers to assist allegedly injured Japanese whaler
11	Description of environmental impact of whaling
12	Sea Shepherd acts to enforce international law
13	Sea Shepherd stresses need to avoid injuring anyone
14	Paul Watson says Sea Shepherd has never rammed Japanese whaling boats and doesn't think it ever will
15	Sea Shepherd offers to assist Japanese whalers in finding one of their missing crew
16	Japanese whalers throw large metal objects at Sea Shepherd crew
17	Paul Watson notes how Sea Shepherd does not throw things at the Japanese whalers, but the Japanese deliberately try to hit Sea Shepherd's crew with what they throw
18	Sea Shepherd helicopter pilot instructs Sea Shepherd crew to throw butyric acid on the port bow because there is nobody there
19-20	Description of the environmental impact of whaling
21	Sea Shepherd explains that its goal is to interfere so as to prevent whaling
22	Japanese whaling ship slices much smaller Sea Shepherd vessel (the ADY GIL) in half, putting lives of Sea Shepherd crew at risk.

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1  
2 I declare under penalty of perjury of the laws of the United States that the foregoing is true  
3 and correct to the best of my knowledge.  
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5 DATED this 30<sup>th</sup> day of January, 2012 at Seattle, Washington.  
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9 Daniel P. Harris  
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